

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
WESTERN DIVISION

FIREARMS REGULATORY
ACCOUNTABILITY COALITION, INC., *et*
al.,

Plaintiffs,

v.

MERRICK B. GARLAND, *et al.*,

Defendants.

Case No. 1:23-cv-24-DLH-CRH

DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY

Defendants respectfully notify this Court of an opinion that the United States District Court for the Eastern District of Virginia issued on May 26, 2023, in *Miller v. Garland*, No. 1:23-cv-195-RDA-JFA, ---F. Supp. 3d---, 2023 WL 3692841 at *1 (E.D. Va. May 26, 2023), attached hereto as Exhibit A. In that opinion, the court denied the plaintiff's motion to temporarily restrain and/or preliminarily enjoin the Bureau of Alcohol, Tobacco, Firearms, and Explosives' enforcement of the same rule challenged in this litigation, *Factoring Criteria for Firearms With Attached "Stabilizing Braces,"* 88 Fed. Reg. 6,478 (Jan. 31, 2023). The court held that the plaintiff had not demonstrated a substantial likelihood of success on the merits of any of his claims, including claims that parallel claims brought in this matter. *Compare Miller*, 2023 WL 3692841 at *3–*4 (statutory authority); *5 (cost-benefit); *8 (arbitrary and capricious); *9 (retroactivity); *9–*10 (lenity) *with* Pls.' Mot. for Prelim. Inj., ECF No. 7-1, at 8–18 (statutory authority); 30–32 (cost-benefit); 21–30 (arbitrary and capricious); 32–33 (retroactivity); 18–21 (lenity).

Dated: May 30, 2023

Respectfully submitted,

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/s/ Taylor Pitz
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CERTIFICATE OF SERVICE

On May 30, 2023, I electronically submitted the foregoing document with the Clerk of Court for the U.S. District Court, District of North Dakota, using the Court's electronic case filing system. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Taylor Pitz
TAYLOR PITZ
Trial Attorney
U.S. Department of Justice